IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 2364 of 2005

Between:

Smt. Mamidisetty Kanakamma, w/o late Venumadhav,
r/o H.No. 4-71, Survey No. 915, Gangadhara (Village & Mandal),
Karimnagar District.

..... PETITIONER

AND

1 The Mandal Revenue Officer,. Gangadhara,

Karimnagar District.
2 The Joint Collector, Karimnagar District.
3 The Mandal Parishad Development Officer,

Gangadhara, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the action of the respondents 1 and 3 in seeking to dispossess the petitioner from the premises bearing No. 4-71 , Survey No. 915, Gangadhara Village and Mandal, Karimnagar District and to demolish the same even before the representation made by the petitioner to the 2nd respondent for allotment of Patta is disposed off as arbitrary, illegal and pass such other order or orders as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: MR.S.SATYAM REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: MR JOYTESHWAR GOGINENI

The Court at the stage of admission made the following:

-

-

-

ORDER:

-

Seeking Writ of Mandamus, declaring the action of respondent Nos.1 and 3 in trying to dispossess the petitioner from the premises bearing No.4-71, Survey No.915, Gangadhara village and Mandal, Karimnagar District, as illegal and arbitrary, the present writ petition is filed.

It is stated that the petitioner has been in occupation of the premises at H.No.4-71, S.No.915 of Gangadhara village of Karimnagar District since more than 23 years by running a tea stall. With the permission of the Gram Panchayat she constructed the tea stall and maintaining the same. It is further submitted that the 1st respondent issued notice under Section 7 of A.P.Land Encroachment Act, 1905 on 24.01.2005 and for that the petitioner submitted her explanation on 05.02.2005 stating that she had constructed the hotel-cum-residence with the permission of the Gram Panchayat and requested not to remove the constructions and further requested to issue patta for the said property and the same is pending consideration.

After receipt of notice, the respondents filed counter affidavit stating that the husband of the petitioner was already granted house site patta in Sy.No.805 in the same village for an extent of Ac.0.08 cents under proceedings No.B/4482/85, dated 08.07.1986 issued by the

1st respondent. It is further stated that the Housing Corporation has also constructed a house in the said site under R.P.H Scheme and handed over it to the husband of

the petitioner. The explanation submitted by the petitioner is pending consideration, and without waiting for final orders, the petitioner straight away filed this writ petition and obtained interim order. After passing final order, and if it is adverse to the petitioner, the petitioner has to file an appeal before the appellate Court.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Revenue.

After hearing both sides, it came to light that the husband of the petitioner was granted patta for an extent of Ac.0.08 cents in the same village and the Housing Corporation has also got constructed a house thereon and handed it over to the petitioner. The explanation submitted by the petitioner to the impugned Sec.7 notice is also pending consideration before the respondents. The petitioner cannot rely on the permission granted by the Gram Panchayat, which has no authority to grant permission to raise constructions on the land belong to the Revenue Department.

In that view of the matter, I see no reason to entertain this writ petition. However, as the explanation submitted by the petitioner to the Sec.7 notice is pending consideration before the respondents, I deem it appropriate to give a direction to the respondents to pass appropriate orders thereon, in accordance with law, after affording opportunity to the petitioner, within a period of 8 (eight) weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall not be dispossessed from the land in question.

With the above observations, the Writ Petition is dismissed. No order as to costs.

Dated: 15.06.2005

Dsr

Note:

Issue operative portion by

Wire at party's costs

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Mandal Revenue Officer,

Gangadhara, Karimnagar District

2. The Joint Collector,

Karimnagar District

3. The Mandal Parishad Development Officer,

Gangadhara, Karimnagar District

4. Two CCs to the Government Pleader

for Revenue, High Court Buildings,

Hyderabad (OUT)

5. Two CD copies

*Form-NIC-OGS/WP{**AVLR**}*